

Southwestern Bell

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Federal Communications Commission
Office of the Secretary

April 21, 1992

Richard C. Hartgrove
General Attorney

Mr. William A. Blase
Director-Federal Regulatory
Southwestern Bell Corporation
1667 K Street, N.W., Suite 1000
Washington, D.C. 20006

Dear Bill:

Re: CC Docket No. 92-26

Enclosed please find an original and four (4) copies of the above-referenced pleading to be filed with the Secretary of the Commission on Tuesday, April 21, 1992. Also enclosed is a copy of the pleading to be filed-stamped and returned to me.

Additional copies of the pleading are attached to be used as the courtesy copies and one is included for your files.

Please call to confirm that the pleading has been filed.
Thank you for your assistance.

Very truly yours,

Richard C. Hartgrove

Enclosure

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APR 21 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Rules Governing)
Procedures to Be Followed)
When Formal Complaints Are) CC Docket 92-26
Filed Against Common Carriers)

COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company (SWBT) files its comments to the proposed changes to Commission Rules regarding formal complaints. SWBT supports the streamlining of the formal complaint process and offers suggestions herein in support of this goal.

1. PLEADINGS

Certain suggested rule changes will do little to shorten the formal complaint procedure but will work a hardship on parties defending against formal complaints.

For this reason, SWBT does not support the proposal to shorten, from 30 to 20 days, the response time for the filing of an answer to a complaint or an answer to interrogatories. The record in many formal complaints consists only of a complaint and an answer. Thus, unlike in Federal Court, the defending party must do more than simply enumerate denials. The defendant in formal complaint proceedings must, in effect, put all its evidence into

its answer. In technical complaints involving the gathering of much data, this cannot easily be done in 30 days, much less in 20. This proposal would seriously disadvantage the defendant.

Moreover, a reduction of 10 or 20 days in the formal complaint cycle will not speed the process. SWBT currently has pending against it several complaints which were filed in 1988 and 1989. A reduction of ten or twenty days in answer time would reduce the total time necessary for resolution by only a de minimus amount.

The Commission could take certain other steps, however, not mentioned in the proposed rulemaking, that would greatly streamline the formal complaint procedure. First, oral rulings should be issued not only on discovery disputes but also on the merits of complaints. The prevailing party could then prepare an order (to be approved by opposing counsel) to be entered by the Commission. This is the procedure followed in most state courts, where dockets are notoriously crowded. Second, the rules should be amended to provide for immediate dismissal of complaints alleging unreasonably high prices when the prices in question fall within all relevant price cap index, band and sub index constraints. Similarly, complaints on alleged overearnings of price cap companies which have complied with the sharing mechanisms should be summarily denied. Dismissing such complaints on their face, before defendants and the Commission have wasted resources, time and money, would speed the process greatly. Third, the assessment, of

a filing fee would encourage the submission of only legitimate complaints.

2. DISCOVERY

SWBT supports the proposal to limit the time for the service of interrogatories to 20 days after the answer date. SWBT also agrees that answers to interrogatories and documents produced through discovery need not be filed with the Commission.

Without question, discovery disputes are an impediment to timely resolution of formal complaints. Any rule change that will abolish unnecessary and unwarranted discovery will be a major step forward. For this reason, SWBT also supports the proposal that discovery disputes be resolved by oral rulings.

SWBT opposes, however, the proposed amendments regarding confidential information. As the telecommunications industry becomes increasingly competitive, more and more parties are using the formal complaint procedure to gain access to confidential business information of regulated companies. Much of this information has been entrusted to SWBT by its customers, and SWBT has neither the right nor the authorization to disclose it. Disclosure would harm not only SWBT but also, in many instances, its customers.

The proposal to allow confidential information to be provided to a party for duplication, with the requirement that the receiving party keep a log of all copies made and return both copies and log at the conclusion of the proceeding, is unworkable.

A party (complainant or defendant) could not verify the accuracy of the log. A party would thus not have any method of verifying that all copies had been returned. And, of course, a party can inform itself of the contents of a confidential document without copying it.

If a confidential document is necessary to the resolution of a formal complaint, a copy of such document could be made available to the Commission -- to be returned upon resolution of the dispute, with rules providing that (1) limited use is to be made of the document, and (2) no one outside the Commission is to be given copies or otherwise informed of the contents. If the document is confidential to a customer, the customer must be notified and must agree to its release. Even in this limited instance, safeguards must be in place to insure that the information is not disclosed outside of the Commission. Anything less would conflict with 5 U.S.C. 552(b)(4), which provides that the Commission shall not make public "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

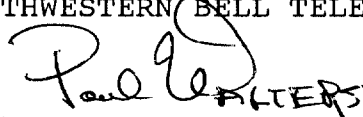
The Commission should not allow the document to be seen by the opposing party unless necessary to a prima facie case or defense. Then the opposing party should sign a confidentiality

agreement and should view the document at the Commission with all parties present. No reference to the document should be made in subsequent filings. Under no circumstances should confidential information be made available, for reading, copying and distributing, to opposing parties.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By

A handwritten signature in dark ink, appearing to read "Paul Walters", is written over a horizontal line.

Durward D. Dupre
Richard C. Hartgrove
J. Paul Walters

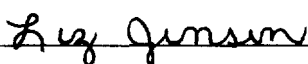
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April 21, 1992

CERTIFICATE OF SERVICE

I, Liz Jensen, hereby certify that the foregoing
Comments of Southwestern Bell Telephone Company in Docket 92-26
have been served this 21th day of April, 1992 to the Parties of
Record.



Liz Jensen

April 21, 1992

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